EVIDENCE.

1772-3. 13 Geo. 3, c. 63, ss. 40, 42, 44, 45 (Evidence for Courts in United Kingdom).
1784. 24 Geo. 3, sess. 2, c. 25, ss. 78 to 81 (Evidence for Courts in United Kingdom).
1788. 26 Geo. 3, c. 57, ss. 28, 38 (Evidence for Courts in United Kingdom).
1820. 1 Geo. 4, c. 101[1] (Divorce).
1831. 1 Will. 4, c. 22 (Evidence on Commission).
1840. 3-4 V. c. 105, ss. 66, 67.
1843. 6-7 V. c. 22[1] (Colonial legislation).
1854. 17-18 V. c. 80, s. 58 (Registration of Births, Deaths and Marriages, Scotland).
1856. 19-20 V. c. 113[1].
1859. 22 V. c. 20[1] (Commission).
1867-8. 31-2 V. c. 37[1] (Documentary).
1870. 33-4 V. c. 52, s. 24 (Extradition, Foreign Tribunals).
1871. Act 4, s. 18A (Coroner).
1872. Act 1 (Evidence Act).
,, Reg. 3, s. 3 (Laws, Santhál Parganas).
1873. 36-7 V. c. 60, s. 5 (Extradition, Foreign Tribunals).
1874. Reg. 9, s. 3 (Laws, Arakan Hills).
1879. Act 17, s. 10A (Dekkhan Agriculturists).
1881. 44-5 V. c. 58, s. 127 (Repeal).
1881. 44-5 V. c. 69, ss. 15, 29 (Fugitive Offenders).
1882. 45-6 V. c. 9[1] (Documentary).
1884-5. 48-9 V. c. 74[1] (Commission).
1887. Act 14, s. 68 (Royal Indian Marine).
1890. 53-4 V. c. 37, s. 5 (Foreign Jurisdiction).
,, Reg. 1, ss. 3, 4 (Laws, *British* Baluchistan).
1891. Act 18 (Bankers' Books).
1894. Reg. 1, s. 3 (Laws, Angul).
1895. 58-9 V. c. 9[1] (Documentary).
,, Reg. 1, s. 3 (Laws, Kachin Hills).
1896. Reg. 5, s. 3 (Laws, Chin Hills).
1898. Act 5, ss. 467, 473, 475 (Criminal Procedure).
,, Act 6, ss. 14, 15 (Post Office; Marks).
,, Act 13, s. 4 (Laws, Burma).
1900. Reg. 1, s. 4 (Laws, Chittagong Hill Tracts).
1903. Act 15, s. 21 (Extradition).
1905. 5 Edw. 7, c. 15, ss. 50, 52 (Trade Mark).
1907. 7 Edw. 7, c. 16 (Colonial Statutes).
1908. 8 Edw. 7, c. 48, ss. 9, 39 (Post Office; Marks and Regulations).
,, Act 5, s. 84 (Civil Procedure).
,, Act 14, s. 13 (Criminal Law Amendment).
1910. 10 Edw. 7 & 1 Geo. 5, c. 32 (Registration of Births, Deaths and Marriages, Scotland).

I.—ENGLISH LAW . . . . . { 1. Taking evidence in Courts of Judicature, etc. 2. Proof and Admissibility of various Documents.

II.—INDIAN LAW . . . . . { 1. Preliminary. 2. Relevancy of Facts. 3. Proof. 4. Estoppel. 5. Witnesses. 6. Miscellaneous Provisions.

I.—ENGLISH LAW.

1. Taking evidence in Courts of Judicature, etc.

Mandamus by High Court, England, to Courts in India for taking evidence . . . . . 13G.3,c.63,ss.44,45.
Taking of evidence in India for bill of divorce in England . . 1G.4,c.101.

[1] Collective title ("Evidence Acts, 1806 to 1895") given by 59 & 60 Vict., c. 14.

EVIDENCE—*contd.*

I.—ENGLISH LAW—*contd.*

1. Taking evidence in Courts of Judicature, etc.—*contd.*

Taking evidence by commission in India, on indictments and information in King's Bench, and proceedings in Parliament for offences in India and in all actions in the King's Courts at Westminster and Dublin . . . . . 13G.3,c.63,ss.40,42,45. 24G.3,sess.2,c.25,ss.78to 81. 26G.3,c.57,s.28. 1W.4,c.22. 3-4V.c.105,ss.66,67.

Taking evidence by commission, in proceedings pending before any tribunal in British dominions out of the jurisdiction of such tribunal; power of Courts to nominate examiner; power to make rules for giving effect to Acts: oath or examination of witnesses . . . . . 22V.c.20. 48-9V.c.74.

Endorsement in one grouped British Possession of summons to witness on charge of offence triable in another . . . 44-5V,c.69,s.15.

Validity of laws made by Legislatures of British Possessions for admission of evidence of persons having no religious belief . 6-7V.c.22.

Foreign tribunals:

Attendance and examination of witnesses in British dominions, and production of documents—

in civil matters pending before . . . . . 19-20V.c.113.

in criminal matters, not political, pending before . . 33-4V.c.52,s.24. 36-7V.c.60,s.5.

Power, by Order in Council, to extend 19 & 20 Vict. c. 113, etc., to any place to which Foreign Jurisdiction Act, 1890, applies . . . . . 53-4V.c.37,s.5,Sch.I.

Admission of depositions, etc., under Fugitive Offenders Act . 44-5V.c.69,s.29.

2. Proof and Admissibility of various Documents.

Proof in Great Britain of documents signed in India . . . 26G.3,c.57,s.38.

Proof of Royal Proclamations, Orders in Council, Orders of Privy Council, Treasury, Admiralty, Secretary of State, Board of Trade, etc., in United Kingdom or British Possession; saving of legislative powers of British Possession . . . . 31-2V.c.37. 58-9V.c.9.

Proof of documents printed under superintendence of Stationery Office . . . . . 45-6V.c.9.

Admissibility and proof of extracts from and copies of register of trade-marks . . . . . 5Edw.7,c.15,ss.50to52.

Proof of re-enactments passed by Legislatures of British Possessions 7Edw.7,c.16.

Proof of Post Office regulations . . . . . 8Edw.7,c.48,s.36.

Official mark on postal packet to be evidence of amount of postage . . . . . 8Edw.7,c.48,s.9.

Admissibility and proof of extracts from register books kept under s. 58 of the Registration of Births, Deaths and Marriages (Scotland) Act, 1854 . . . . . 17,18V.c.80,s.58. 10Edw.7&1Geo.5, s.32.

See also MERCHANT SHIPPING, 11 (*b*); PRISONER (ENGLISH LAW).

II.—INDIAN LAW.

1. Preliminary.

Act 1, 1872 (the Indian Evidence Act, 1872)—

extends to the whole of British India . Act1,1872,s.1.

declared in force—

in the Santhál Parganas . . Reg.3,1872,s,3.Sch.

EVIDENCE—*contd.*

II.—INDIAN LAW—*contd.*

1. Preliminary—*contd.*

Act 1, 1872 (the Indian Evidence Act, 1872)—*contd.*
declared in force—*contd.*
in Angul and the Khondmals . . . . . Reg.1,1894,s.3.
in Chittagong Hill-tracts . . . . . Reg.1,1900,s.4.
in the *Arakan Hill District* . . . . . Reg.9,1874,s.3.
in Upper Burma generally, *except the Shan States (with an addition)* . . . . . Act13,1898,s.4,Sch.1.
in Kachin Hill-tracts, as regards hill-tribes . . . Reg.1,1895,s.3.
in certain tracts in the Chin Hills . . . . . Reg.5,1896,s.3.
in British Baluchistan *(with an addition)* . . . . Reg.1,1890,ss.3,4.
Act 18, 1872 (amending the Indian Evidence Act, 1872), declared in force in—
the Santhál Parganas . . . . . Reg.3,1872,s.3.
the Arakan Hill District . . . . . Reg.9,1874,s.3.
Act 18, 1891 (Bankers' Books), declared in force in—
the Santhál Parganas . . . . . Reg.3,1872,s.3,Sch.
Upper Burma, except Shan States . . . . . Act13,1898,s.4,Sch.1.
Act 1, 1872, applies to all judicial proceedings in or before Courts (including Courts-martial), but not to affidavits or to proceedings before an arbitrator . . . . . Act1,1872,s.1.
Court-martial under Army Act of 1881 not subject to provisions of Act 1, 1872 . . . . . 44-45V.c.58,s.127.
Act 1, 1872, is applicable, subject to modifications, to proceedings before Indian Marine Courts Act14,1887,s.68
General definitions. (*See also* WORDS AND PHRASES) . . Act1,1872,ss.3,4.

2. Relevancy of Facts.

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Statements made by persons who cannot be called as witnesses; when they are relevant facts . . . . . „ ss.32,33.
Evidence of witness taken by enquiring Magistrate in *proceedings* under Act 14, 1908, Pt. I, when admissible at trial . . Act14,1908,s.13.
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Statements in maps, charts or plans . . . . . „ s.36.
„ of fact of public nature, contained in Acts or notifications . . . . . „ s.37.
„ as to law, contained in law-book . . . . „ s.38.
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EVIDENCE—*contd.*

II.—INDIAN LAW—*contd.*

2. Relevancy of Facts—*contd.*

Opinions of third persons, when relevant :
- Experts . . . . . Act1,1872,ss.45.46.
- Opinion as to handwriting . . . . . „ s.47.
- „ „ existence of right or custom . . . . „ s.48.
- „ „ usages, tenets, etc. . . . . „ s.49.
- „ „ relationship . . . . . „ s.50.

Grounds of opinion, when relevant . . . . . „ s.51.

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3. Proof.

Facts judicially noticeable need not be proved . . . . „ s.56.

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Oral evidence :
- All facts, except contents of documents, may be proved by . „ s.59.
- Must be direct . . . . . „ s.60.

Documentary evidence :
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  - Definition . . . . . „ s.74.
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- Presumption as to genuineness, etc., of documents . . „ ss.79to90.

Exclusion of oral by documentary evidence ; saving of provisions of Indian Succession Act, 1865, as to construction of wills . „ „ss.91,92to 100.

Exception in case of transaction with agriculturist in Dekkhan . Act17,1879,s.10A(ins. Bom.Act2,1907,s.2).

Burden of proof . . . . . Act1,1872,ss.101to111.

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4. Estoppel.

Estoppel, when it arises . . . . . „ s.115.
- „ admission may operate as . . . . . „ s.31.
- „ of tenant . . . . . „ s.116.
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5. Witnesses.

Who may testify . . . . . „ ss.118,120.

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EVIDENCE—*concld.*

II.—INDIAN LAW—*contd.*

5. Witnesses—*contd.*

Restrictions on disclosure of—
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- affairs of State, etc. . . . . ,, ss.123, 124.
- professional communications . . . . . ,, ss.126 to 129.

Magistrate, Police-officer and Revenue-officer not bound to disclose source of information as to commission of offence . . ,, s.125.

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General provisions as to examination of . . . . . ,, ss.135, 137 to 140, 144 to 166.

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6. Miscellaneous Provisions.

Judge to decide as to admissibility of evidence . . . Act 1, 1872, s.136.

When improper admission or rejection of evidence is no ground for a new trial . . . . . ,, s.167.

Foreign tribunals; attendance and examination of witnesses in British India, in criminal matters, not political, pending before Act15, 1903, s.21.

Service of summons on and examination of witnesses in British India in civil and revenue matters by certain foreign tribunals. *See* CIVIL PROCEDURE, 3, 11.

Bankers' books:

Act applies to books of—
- (1) banking companies . . . . . Act18, 1891, ss.2(2), 3.
- (2) partnerships and individuals notified by Local Government, and . . . . . Act18, 1891, ss.2(2), 3.
- (3) post office savings banks or money order offices . . Act18, 1891, ss.2(2), 3.

Definitions . . . . . ,, s.2(3) to (8).

Certified copies of entries in, to be admitted in evidence . ,, s.4.

Officer of bank not compellable to produce books or to appear as witness; exceptions . . . . . ,, ss.5, 6(2), (3).

Inspection and taking of copies of, or production of certified copies of, entries in, by order of Court or Judge . . ,, s.6.

Costs in proceedings under Act . . . . . ,, s.7.

Chemical examiner's report to be evidence . . . . . Act4, 1871, s.18A (ins. Act4, 1908, s.6).

Certain certificates in lunacy matters to be evidence . . Act5, 1898, ss.467, 473, 475.

Post office marks to be evidence . . . . . Act6, 1898, ss.14, 15.

Production, etc., of documents in suit. *See* CIVIL PROCEDURE, 2.

Evidence how taken in criminal trial. *See* CRIMINAL PROCEDURE (INDIAN), 8 (7).

Punishment for false evidence, etc. *See* CRIMINAL LAW (INDIAN), 9.

Obtaining evidence of prisoners. *See* PRISONER (INDIAN LAW), 2 (6), (7), (10).

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